

REMARKS

The following remarks are in response to the Office Action dated June 7, 2006 a response to which a response was due without any extensions of time, on September 7, 2006. Applicants are responding on December 7, 2006 with a three month extension of time.

Currently, Applicants have amended claim 18, added new claim 25 and have cancelled claims 17 and 19-24.

On November 22, 2006, Applicant's Attorney held a telephonic interview with Examiner Rogers to discuss the relevance of the cited prior art references El-Nokaly U.S. Patent No. 6,325,995 and U.S. Patent No. 5,599,555.

During the interview, Applicant's attorney suggested amending the claims 17-20 to narrow the percent range of the cellulose powder and flavor oil so that the ranges were outside of 555'. Examiner Rogers also suggested limiting the flavor oils, emulsifiers and cellulose polymers to specific Markush groups defined in the specification and the claims. Examiner Rogers reserved the right to reexamine the cited references and related art which would be necessitated by amendment.

In the June 7, 2006 Office Action, Claim 20 was rejected under the second paragraph of 35 U.S.C. 112 for insufficient antecedent basis for reciting the limitation "fragrance system" in claim 18. Applicants have cancelled Claim 18 and respectfully request withdrawal of this rejection.

Claims 17-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by El-Nokaly U.S. Patent No. 6,325,995.

It is the Examiner's opinion that El-Nokaly teaches lipstick compositions comprised of association structures that comprise about 3% to about 96%, by weight, of polar solvent (e.g. flavor oils) and from about 4% to about 97% of surfactant (e.g. polyglyceryl esters, diglyceride fatty acids) and optional components such as ethyl cellulose (1-5% by weight). See abstr.,

col 5 line 64-col 6 line 13, col 7 line 21-44, col 10 line 14-17, col 11 lines 32-36, col 16 lines 12-17.

Claims 17-20 are rejected under 35 U.S.C. §102(b) as being anticipated by El-Nokaly (U.S. 5,599,555 herein after '555).

It is the Examiner's opinion that El-Nokaly teaches an encapsulated active vehicle comprised of an active ingredient of perfumes and/or edible oils (providing both flavor and aroma to food products or skin creams) and a liquid crystal containing solvent (including flavor oils) a polysaccharide (ethyl and hydroxypropyl celluloses are listed specifically) and emulsifiers (fatty acid monoglycerides are specifically mentioned), all of the components above are within the range specified by the applicants. See col 1 line 19-24, 39-51, col 4 lines 16-44, col 5 lines 12-23, col 6 lines 35-67, col 7 lines 1-26, col 10 lines 39-54 and claims. Regarding claim 18 the lipid employed in '555 is the same as a flavor oil since it encompasses naturally occurring vegetable and animal fats and oils and patent states that flavor oils are generally recognized in the art to be a liquid which is derived from botanical sources such as leaves, bark and skin vegetables, thus the lipids employed satisfy this definition and can be considered to be a form of flavor oil.

In view of these rejections and based on the telephonic interview with Examiner Rogers Applicants have cancelled claims 17, 19-24, added new claim 25 and currently amended claim 18 to recite:

A liquid flavor system comprising:
about 98 weight percent flavor oil;

from about 2 to about 30 weight percent emulsifier
emulsifier selected from the group consisting of mono and di-glycerol esters of fatty acids, polyglycerol esters and sorbitol esters; and

from about 0.5 to about 10 weight percent cellulose polymer
selected from the group selected from the group consisting of hydroxypropyl cellulose and ethyl cellulose.

The amendment to claim 18 narrows the percent range of the cellulose powder and flavor oil so that it is outside the ranges disclosed in El-Nokaly. Applicants have also amended Claim 18 to limit the emulsifiers and cellulose polymers to specific Markush groups defined in the specification and the claims and have added a dependent claim 25 limiting the flavor oils to a specific Markush group. Thus, the claimed invention is not anticipated under 35 U.S.C. §102(b) nor obvious under 35 U.S.C. §103(a).

In view of these amendments, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(b). Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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